MR. ERSKINE'S

SPEECH,

AT THE

TRIAL

OF

LORD GEORGE GORDON,

IN THE

COURT OF KING'S BENCH,

On MONDAY, FEBRUARY 5, 1781.

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MR. ERSKINE'S

SPEECH, &c.

Gentlemen of the Jury,

MR. Kenyon having informed the court that we propoſed to call no other witneſſes, it is now my duty to addreſs myſelf to you as counſel for the noble priſoner at the bar, the whole evidence being cloſed. I uſe the word cloſed, becauſe it is certainly not finiſhed; ſince I have been obliged to leave the place in which I ſat, to diſentangle myſelf from the volumes of names which lay there under my feet; which, if it had been neceſſary for the priſoner's defence, would have confirmed all the facts that are already in evidence before you.

Gentlemen, I feel myſelf entitled to expect, both from you and from the court, the greateſt indulgence and attention. I am indeed a greater object of your compaſſion, than even my noble friend whom I am defending. He reſts ſecure in conſcious innocence, and in the well-placed aſſurance, that that innocence can ſuffer no ſtain in your hands: not ſo with me; I ſtand up before you a troubled, I am afraid, a guilty man, in having preſumed to accept of the awful taſk, which I am now called upon to perform; a taſk, which my learned friend that ſpoke before me, who has juſtly riſen by extraordinary capacity and experience, to the

higheſt rank in his profeſſion, has ſpoken of with that diſtinctneſs and diffidence, which becomes every chriſtian in a caſe of blood. If Mr. Kenyon has ſuch feelings, think what mine muſt be. —Alas! gentlemen, who am I—A young man of little experience, unuſed to the bar of criminal courts, and ſinking under the dreadful conſciouſneſs of that inexperience. I have, however, this conſolation, that no ignorance or inattention on my part, can poſſibly prevent you from ſeeing, under the direction of the judges, that the crown has eſtabliſhed no caſe of treaſon.

Gentlemen, I did expect, that the Attorney-General, in opening a great and ſolemn ſtate proſecution, would have at leaſt indulged the advocates for the priſoner with his notions on the law of high treaſon, as applied to the caſe before you, in leſs general terms. It is very common indeed, in little civil actions, to make ſuch obſcure introductions by way of trap; but in caſes of blood, it is unuſual and unbecoming, becauſe the right of the crown to reply, even where no evidence is called by the priſoner, gives it thereby the advantage of replying, without having given ſcope for obſervation on the principles of the opening, with which the reply muſt be conſiſtent. One obſervation he has, however, made on the ſubject, in the truth of which I heartily concur, viz. that the crime of which the noble perſon at your bar ſtands accuſed, is certainly the very higheſt and moſt atrocious that a member of civil life can poſſibly commit; becauſe it is not, like all other crimes, merely an injury to ſociety, from the breach of ſome of its reciprocal relations, but is an attempt

tempt utterly to diſſolve and deſtroy ſociety altogether.

In nothing therefore is the wiſdom and juſtice of our laws ſo ſtrongly and eminently manifeſted, as in the rigid, accurate, cautious, explicit, unequivocal definition of what ſhall conſtitute this high offence; for high treaſon conſiſting, as I have ſaid, in the breach and diſſolution of that allegiance, which binds ſociety together, if it were left ambiguous, uncertain, or undefined, all the other laws eſtabliſhed for the perſonal ſecurity of the ſubject, would be utterly uſeleſs; ſince this offence, which, from its nature, is ſo capable of being created and judged of by rules of political expediency on the ſpur of the occaſion, would be a rod at will to bruiſe the moſt virtuous members of the community, whenever that virtue might become troubleſome or obnoxious to a bad government.

Injuries to the perſons and properties of our neighbours, conſidered as individuals, which are the ſubjects of all other criminal proſecutions, are not only capable of greater preciſion, but the powers of the ſtate can be but rarely intereſted in ſtraining them beyond their legal interpretation; but if treaſon, where the government itſelf is directly offended, were left to the judgment of its miniſters, without any boundaries, nay without the moſt broad, diſtinct, and inviolable boundaries marked out by law, there could be no public freedom; and the condition of an Engliſhman would be no better than a ſlave's at the foot of a Sultan; ſince there is little difference whether a man dies by the ſtroke of a ſabre, without the forms of a trial, or by the moſt pompous ceremonies of juſtice,

ſice, if the crime could be made at pleaſure by the ſtate to fit the fact that was to be tried. Would to God, gentlemen of the jury, that this was an obſervation of theory alone, and that the page of our hiſtory was not blotted with ſo many melancholy, diſgraceful proofs of its truth! But theſe proofs, melancholy and diſgraceful as they are, have become glorious monuments of the wiſdom of our fathers, and ought to be a theme of rejoicing and emulation to us. For from the miſchiefs conſtantly ariſing to the ſtate from every extenſion of the ancient law of treaſon, the ancient law of treaſon has been always reſtored, and the conſtitution, at different periods, waſhed clean, though unhappily with the blood of oppreſſed and innocent men.

When I ſpeak of the ancient law of treaſon, I mean the venerable ſtatute of King Edward the Third, on which the indictment, you are now trying, is framed; a ſtatute, made as its preamble ſets forth, for the more preciſe definition of this crime, which had not, by the common law, been ſufficiently explained, and conſiſting of different and diſtinct members, the plain unextended letter of which was thought to be a ſufficient protection to the perſon and honour of the ſovereign, and an adequate ſecurity to the laws committed to his execution. I ſhall mention only two of the number, the others not being, in the remoteſt degree, applicable to the preſent accuſation.

To compaſs, or imagine the death of the King; ſuch imagination, or purpoſe of the mind, viſible only to its great Author, being manifeſted by ſome open act, an inſtitution obviouſly directed, not only

only to the ſecurity of his natural perſon, but to the ſtability of the government; the life of the prince being ſo interwoven with the conſtitution of the ſtate, that an attempt to deſtroy the one, is juſtly held to be a rebellious conſpiracy againſt the other.

Secondly, Which is the crime charged in the indictment, to levy war againſt him in his realm; a term that one would think could require no explanation, or admit of any ambiguous conſtruction amongſt men who are willing to read laws according to the plain ſignification of the language in which they are written, but which has nevertheleſs been an abundant ſource of that conſtructive cavil which this ſacred and valuable act was made expreſly to prevent. The real meaning of this branch of it, as it is bottomed in policy, reaſon, and juſtice; as it is ordained in plain unambiguous words, as it is confirmed by the precedents of juſtice, and illuſtrated by the writings of the great lights of the law, in different ages of our hiſtory, I ſhall, before I have done, impreſs upon your minds, as a ſafe unerring ſtandard, by which to meaſure the evidence you have heard. At preſent I ſhall only ſay, that far and wide as judicial deciſions have, in the looſe manner you have heard, ſtrained the conſtruction of levying war beyond the warrant of the ſtatute, to the diſcontent of ſome of the greateſt ornaments of the profeſſion, they hurt not me; as a citizen I may diſapprove of them, but as advocate for the noble perſon at your bar, I need not impeach their authority; becauſe none of them have ſaid more than this,—"that war may be levied againſt the King in his realm,

realm, not only by an inſurrection to change, or to deſtroy the fundamental conſtitution of the government itſelf by rebellious war, but by the ſame war to endeavour to ſuppreſs the execution of the laws it has enacted, or to violate and overbear the protection they afford, not to individuals, (which is a private wrong) but to any general claſs or deſcription of the community, by premeditated open acts of violence, hoſtility, and force."

Gentlemen, I repeat theſe words, and call ſolemnly on the judges to attend to what I ſay, and to contradict me if I miſtake the law,—by premeditated, open acts of violence, hoſtility, and force; nothing equivocal, nothing ambiguous, no intimidations, or over-awings, which ſignify nothing preciſe or certain, becauſe what frightens one man, or ſet of men, may have no effect upon another, but that which compels and coerces—open violence and force.

Gentlemen, this is not only the whole text, but I ſubmit it to the learned judges, under whoſe correction I am happy to ſpeak, an accurate explanation of the ſtatute of treaſon, as far as it relates to the preſent ſubject, taken in its utmoſt extent of judicial conſtruction; and which you cannot but ſee not only in its letter, but in its moſt ſtrained ſignification, is confined to acts which immediately, openly, and unambiguouſly, ſtrike at the very root and being of government, and not to any other offences, however injurious to its peace.

Such were the boundaries of high treaſon marked out in the reign of Edward the Third; and as often as the vices of bad princes, aſſiſted by weak, ſubmiſſive parliaments, extended ſtate offences beyond

beyond the ſtrict letter of that act, as often the virtue of better princes and wiſer parliaments brought them back again.

A long liſt of new treaſons, which had grown up in the wretched reign of Richard the Second, from which (to uſe the language of the act that repealed them) "no man knew what to do or ſay for doubt of the pains of death," were ſwept away in the firſt year of Henry the Fourth, his ſucceſſor; and many more which had again ſprung up and accumulated in the following diſtracted arbitrary reigns, putting tumults and riots on a footing with armed rebellion, were again levelled in the firſt year of Queen Mary, and the ſtatute of Edward made once more the ſtandard of treaſons. The ſecurity indeed of his preſent Majeſty's illuſtrious houſe from the machinations of theſe very papiſts, who are now ſo highly in favour, have ſince that time added to the liſt; but theſe not being applicable to the preſent caſe, the ancient ſtatute is ſtill our only guide; which is ſo plain and ſimple in its object, ſo explicit and correct in its terms, as to leave no room for intrinſic error: and the wiſdom of its authors reſolved, that it ſhould ſuffer from nothing extrinſic, ſhut the door againſt all extenſion of the plain letter, declaring, in the very body of the act itſelf, that nothing out of that plain letter ſhould be brought within the pale of treaſon by inference or conſtruction; but that if any ſuch caſes happened, they ſhould be referred to the parliament.

This wiſe reſtriction, has been the ſubject of much juſt eulogium by all the moſt celebrated writers on the criminal law of England. Lord

Coke ſays, that the parliament that made it was on that account called Benedictum, or Bleſſed; and the learned and virtuous Judge Hale, a bitter enemy and oppoſer of conſtructive treaſons, ſpeaks of this ſacred inſtitution with that enthuſiaſm, which it cannot but inſpire in the breaſt of every lover of the juſt privileges of mankind.

Gentlemen, in theſe mild days, when juries are ſo free, and judges ſo independent, perhaps all theſe obſervations might have been ſpared as unneceſſary: but they can do no harm; and this hiſtory of treaſon, ſo honourable to England, cannot, even imperfectly as I have given it, be unpleaſant to Engliſhmen. At all events, it cannot be thought an inapplicable introduction to ſaying, that Lord George Gordon, who ſtands before you indicted for that crime, is not, cannot be guilty of it, unleſs he has levied war againſt the King in his realm, contrary to the plain letter, ſpirit, and intention of the twenty-fifth of Edward the Third; to be extended by no "new or occaſional conſtructions, to be ſtrained by no fancied analogies, to be meaſured by no rules of political expediency, to be judged of by no theory, to be determined by the wiſdom of no individual, however wiſe, but to be expounded by the ſimple genuine letter of the law."

Gentlemen, the only overt-act charged in the indictment, is the aſſembling the multitude, which we all of us remember went up with the petition of the aſſociated proteſtants on the 2d day of laſt June; and in addreſſing myſelf to a humane and ſenſible jury of Engliſhmen, ſitting in judgment on the life of a fellow-citizen, more eſpecially under

under the direction of a court ſo filled as this is, I truſt I need not remind you, that the condition, purpoſes, and behaviour of that multitude, as originally aſſembled on that day, and the purpoſes and acts of him that aſſembled them, are the ſole objects of inveſtigation; and that all the diſmal conſequences which followed, and which naturally link themſelves with this ſubject in the firmeſt minds, muſt be altogether cut off, and abſtracted from your attention, further than the evidence warrants their admiſſion. Indeed, if the evidence had been extenſive with theſe conſequences, if it had been proved that the ſame multitude, under the direction of Lord George Gordon, had afterwards attacked the Bank, broke open the priſons, and ſet London in a conflagration, I ſhould not now be addreſſing you. Do me the juſtice to believe, that I am neither ſo fooliſh as to imagine I could have defended him, nor ſo profligate as to wiſh it if I could. But when it has appeared, not only by the evidence in the cauſe, but by the evidence of the thing itſelf, by the iſſues of life, which may be called the evidence of Heaven, that theſe dreadful events were either entirely unconnected with the aſſembling of that multitude to attend the petition of the proteſtants, or at the very worſt, the unforeſeen, undeſigned, unabetted, and deeply regretted conſequences of it, I confeſs the ſerioufneſs and ſolemnity of this trial ſink and dwindle away. Only abſtract from your minds all that misfortune, accident, and the wickedneſs of others, have brought upon the ſcene, and the cauſe requires no advocate. When I ſay that it requires no advocate, I mean that it requires no

argument to ſcreen it from the guilt of treaſon. For though I am perfectly convinced of the purity of my noble friend's intentions, yet I am not bound to defend its prudence, nor to ſet it up as a pattern for imitation; ſince you are not trying him for imprudence, for an indiſcreet zeal, or for want of foreſight and precaution, but for a deliberate and malicious predetermination to overpower the laws and government of his country by hoſtile, rebellious force.

The indictment firſt charges, that the multitude aſſembled on the 2d of June were armed and arrayed in a warlike manner; which, indeed, if it had omitted to charge, we ſhould not have troubled you with any defence at all, becauſe no judgment could have been given on ſo defective an indictment; for the ſtatute never meant to put an unarmed aſſembly of citizens on a footing with armed rebellion; and the crime, whatever it is, muſt always appear on the face of the record to warrant the judgment of the court.

It is indeed true, that it has been held to be matter of evidence, and dependent on circumſtances, what numbers or ſpecies of equipment and order, though not the regular equipment and order of ſoldiers, ſhall conſtitute an army ſo as to maintain the averment in the indictment of a warlike array; and likewiſe what kinds of violence, though not pointed at the King's perſon, or the exiſtence of government, ſhall be conſtrued to be war againſt the King. But as it has never yet been maintained in argument, in any court of the kingdom, or even ſpeculated upon in theory, that a multitude, without either weapons offenſive or defenſive,

fenſive, of any ſort or kind, and yet not ſupplying the want of them by ſuch acts of violence as multitudes ſufficiently great can atchieve without them. As it has never been aſſerted by the wildeſt adventurer in conſtructive treaſon, that ſuch a multitude, armed with nothing, threatening nothing, and doing nothing, was an army levying war, I am entitled to ſay, that the evidence does not ſupport the firſt charge in the indictment, but, that, on the contrary, it is manifeſtly falſe; falſe in the knowiedge of the crown, which proſecutes the indictment; falſe in the knowledge of every man in London, who was not bedridden on Friday the 2d of June, and who ſaw the peaceable demeanour of the Aſſociated Proteſtants. But you will hear, no doubt, from the Solicitor General, for they have ſaved all their intelligence for the reply, that fury ſupplies arms, *furor arma miniſtrat*; and the caſe of Damaree will, I ſuppoſe, be referred to; where the people aſſembled, had no banners or arms, but only clubs and bludgeons, yct the ringleader, that led them on to miſchief, was adjudged to be guilty of high treaſon for levying war. This judgment it is not my purpoſe to impeach, for I have no time for digreſſion to points that do not preſs upon me.

In the caſe of Damaree, the mob, though not regularly armed, were provided with ſueh weapons as beſt ſuited their miſchievous deſigns: their deſigns were open and avowed, and all the miſchief was done, that could be done, if they had been in the compleateſt armour: they burnt diſſenting meeting-houſes protected by law, and Damaree was taken at their head *in flagrante delicto*, with a

torch

torch in his hand, not only in the very act of deſtroying one of them, but leading on his followers, in perſon, to the avowed deſtruction of all the reſt. There could, therefore, be no doubt of his perpoſe and intention, nor any great doubt that the perpetration of ſuch purpoſe was, from its generality, high treaſon, if perpetrated by ſuch a force as diſtinguiſhes a felonious riot from a treaſonable levying of war. The principal doubt, therefore, in that caſe, was, whether ſuch an unarmed riotous force was war within the meaning of the ſtatute, and on that point very learned men have differed; nor ſhall I attempt to decide between them, becauſe in this one point they all agree.—Gentlemen, for the bleſſing of God, attend to me here—I ſay on this point they all agree, that it is the intention of aſſembling them, that forms the guilt of treaſon: I ſhall give it you in the words of a high authority. The learned Foſter, whoſe private opinions will, no doubt, be preſſed upon you as doctrine and law, and which, if taken together, as all opinions ought, and not extracted in ſmuggled ſentences to ſerve a ſhallow trick, I am contented to conſider as authority.

That great judge, immediately after ſupporting the caſe of Damaree, as a levying war within the ſtatute againſt the opinion of Hale, in a ſimilar caſe of the deſtruction of bawdy-houſes, which happened in his time, ſays, "The true criterion, therefore, ſeems to be—*quo animo*—did the parties aſſemble, with what intention did they meet?"

On that iſſue, then, by which I am ſupported by the whole body of the criminal law of England, concerning which there are no practical precedents

of

of the courts that clash, nor even abstract opinions of the closet that differ—I come forth with boldness to meet the crown. For even supposing this peaceable multitude, though not hostilely arrayed, though without one species of weapon among them, though assembled without plot or disguise, by a public advertisement, exhorting, nay commanding peace, and inviting the magistrates to be present to preserve it, if broken; though composed of thousands who are now standing unimpeached around you, and unreproved, yet who are all principals in treason, if such assembly was treason; supposing, I say, this multitude to be nevertheless an army within the statute, still the great question would remain behind, on which the guilt or innocence of the accused must singly depend, and which it is your exclusive province to determine; namely, Whether they were assembled by my noble client for the traiterous purpose charged in the indictment? For war must not only be levied, but it must be levied against the King in his realm, i. e. either directly against his person to alter the constitution of the government, of which he is the head, or to suppress the laws, committed to his execution, by rebellious force. You must find, that Lord George Gordon assembled these men with that traiterous intention: you must find not merely a riotous illegal petitioning, not a tumultuous, indecent importunity to influence parliament, not the compulsion of motive from seeing so great a body of people united in sentiments and clamorous supplications, but the absolute unequivocal compulsion of force, from the hostile acts of numbers united in rebellious conspiracy and arms.

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This is the iſſue you are to try: for crimes of all denominations, conſiſt wholly, in the purpoſe of the human will—producing the act. *Actus non facie reum niſi mens ſit rea.* The act does not conſtitute guilt—unleſs the mind be guilty: this is the great text, from which the whole moral and policy of penal juſtice is deduced: it ſtands at the top of the criminal page, through all the volumes of our humane and ſenſible laws; and Lord Chief Juſtice Coke, whoſe chapter on this crime is the moſt authoritative and maſterly of all his valuable works, ends almoſt every ſentence with an emphatical repetition of it.

It is neceſſary, that the indictment ſhould charge an open act, becauſe the purpoſe of the mind, which is the object of trial, can only be known by actions; or, again, to uſe the words of Foſter, who has ably and accurately expreſſed it, "The traiterous purpoſe—is the treaſon; the overt-act, the means made uſe of to effectuate the intentions of the heart."—But why ſhould I borrow the language of Foſter, or of any other man, when the language of the indictment itſelf, is lying before our eyes. What does it ſay? Does it directly charge the overt act as in itſelf conſtituting the crime?—No—It charges that the priſoner, "maliciouſly, and traiterouſly, did compaſs, imagine, and intend to raiſe and levy war and rebellion againſt the King." This is the malice prepenſe of treaſon; and that to fulfil and bring to effect ſuch traiterous compaſſings and intentions, he did, on the day mentioned in the indictment, actually aſſemble them, and levy war and rebellion againſt the King. Thus the law, which is made to correct

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and puniſh the wickedneſs of the heart, and not the unconſcious deeds of the body, goes up to the fountain of human agency, and arraigns the lurking miſchief of the ſoul, dragging it to light by the evidence of open acts. The hoſtile mind is the crime; and, therefore, unleſs the matters which are in evidence before you, do, beyond all doubt or poſſibility of error, convince you that the priſoner is a determined traitor in his heart, the priſoner is not guilty.

It is the ſame principle which creates all the various degrees of homicide, from that which is excuſable to the malignant guilt of murder. The fact is the ſame in all, the death of the man is the imputed crime; but the circumſtances of intention make all the difference; and he who killed him is pronounced a murderer, a ſingle felon, or only an unfortunate man, as the circumſtances by which his mind is decyphered to the jury, ſhews it to have been cankered by deliberate wickedneſs, or ſtirred up by ſudden paſſions.

Here an immenſe multitude was, beyond all doubt, aſſembled on the 2d of June; but whether he that aſſembled them be guilty of high treaſon, of a high miſdemeanor, or only of a breach of the act of King Charles the Second againſt tumultuous petitioning, (if ſuch an act ſtill exiſts) depends wholly upon the evidence of his purpoſe in aſſembling them, to be gathered by you, and by you alone, from the whole tenor of his conduct: and to be gathered, not by inference or probability, or reaſonable preſumption, but in the words of the act, proveably; that is, to the full unerring force of demonſtration. You are called upon your oaths

to ſay, not whether Lord George Gordon aſſembled the multitudes in the place charged in the indictment, for that is not denied; but whether it appears, by the facts produced in evidence for the crown, when confronted with the proofs which we have laid before you, that he aſſembled them in hoſtile array, and, with a hoſtile mind, to take the laws into his own hands by main force, and to diſſolve the conſtitution of the government, unleſs his petition ſhould be liſtened to by parliament.

Gentlemen, this is your excluſive province to determine; the court can only tell you what acts the law, in its general theory, holds to be high treaſon, on the general aſſumption, that ſuch acts proceed from traiterous purpoſes: but they muſt leave it to your deciſion, and to your deciſion alone, whether the acts proved now, appear in the preſent inſtance, under all the circumſtances, to have ariſen from the cauſes which form the eſſence of this high crime.

Gentlemen, you have now heard the law of treaſon, firſt in abſtract, and ſecondly as it applies to the general features of the caſe; and you have heard it with as much ſincerity, as if I had addreſſed you upon my oath from the bench where the judges ſit. I declare to you ſolemnly, in the preſence of that Great Being, at whoſe higher bar we muſt all hereafter appear, that I uſed no one art of an advocate, but have acted the plain, unaffected part of a chriſtian man, inſtructing the conſciences of his fellow-citizens to do juſtice.

If I have deceived you on the ſubject, I am myſelf deceived; and if I am deceived through ignorance, my ignorance is incurable; for I have

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ſpared no pains to underſtand it. I am not ſtiff in opinions, but before I change any one of thoſe that I have given you, I muſt ſee ſome direct monument of juſtice that contradicts them. For the law of England pays no reſpect to theories, however ingenious, or to authors, however wiſe; and, therefore, unleſs you hear me refuted by direct precedent, and not by vague doctrine, if you wiſh to ſleep in peace, follow me.

And now, gentlemen, the moſt important part of our taſk begins, namely, the application of the evidence to the doctrines I have laid down. For, trial is nothing more than the reference of facts to a certain rule of action, and a long recapitulation of them would only ſerve to diſtract and perplex the memory, without enlightening the judgment, unleſs the great ſtandard principle by which they are to be meaſured, is fixed and rooted in the mind. When that is done, which I am confident has been done by you, every thing worthy of obſervation falls naturally into its place, and the reſult is ſafe and certain.

Gentlemen, it is already in proof before you, indeed it is now a matter of hiſtory, that an act of parliament paſſed in the ſeſſions of 1778, for the repeal of certain reſtrictions, which the policy of our anceſtors had impoſed upon the Roman Catholic religion, to prevent its extenſion, and to render its limited toleration harmleſs; reſtrictions impoſed, not becauſe our anceſtors took upon them to pronounce their faith to be offenſive to God, but becauſe it was incompatible with good faith to man; being utterly inconſiſtent with that allegiance which every ſubject owes to the government

under which he lives, but from the oaths and obligations of which their religion gave them, not only a releaſe, but a crown of glory and merit for betraying.

It was indeed with aſtoniſhment, that I heard the Attorney-General ſtigmatize thoſe wiſe regulations of our patriot anceſtors with the title of factious and cruel impoſitions, on the conſciences and liberties of their fellow-citizens.

Gentlemen, they were, at that time, wiſe and ſalutary regulations; regulations to which this country owes its freedom, and his Majeſty his crown; a crown which he wears, under the ſtrict entail of profeſſing and protecting that religion which theſe acts were made to repreſs, and which I know my noble friend at the bar joins with me, and with all good men, in wiſhing that he and his poſterity may wear for ever.

Gentlemen, it is not my purpoſe to recall to your minds the fatal effects which this infamous bigotry has, in former days, produced in this iſland. I will not follow the example the crown has ſet me, by making an attack on your paſſions, on ſubjects foreign to the object before you; I will not call your attention from thoſe flames kindled by a villainous banditti, which they have thought fit, in defiance of evidence, to introduce, by bringing before your eyes the crueler flames, in which the bodies of our expiring, meek, patient, chriſtian fathers, were, little more than a century ago, conſuming in Smithfield. I will not call up from the graves of martyrs, all the precious, holy blood that has been ſpilt in this land to ſave its eſtabliſhed government, and its reformed religion, from the

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ſecret villainy, and the open force of papiſts. The cauſe does not ſtand in need even of ſuch honeſt arts, and I feel my heart too big voluntarily to recite ſuch ſcenes, when I reflect that ſome of my own and my beſt and deareſt progenitors, from whom I glory to be ſprung, ended their innocent lives in priſons, and in exile, only becauſe they were proteſtants.

Gentlemen, whether the great lights of ſcience and commerce, which, ſince theſe diſgraceful times, have illuminated Europe, may, by diſpelling theſe ſhocking prejudices, have rendered the papiſts of this day as ſafe and truſty ſubjects as thoſe that conform to the national religion eſtabliſhed by law, I ſhall not take upon me to determine; it is wholly unconnected with the preſent enquiry. We are not trying a queſtion either of divinity or civil policy, and I ſhall therefore not enter at all into the motives or merits of the act that produced the proteſtant petition to parliament; it was certainly introduced by perſons that cannot be named, by any good citizen, without affection and reſpect; but this much I will ſay, without fear of contradiction, that it was ſudden and unexpected; that it paſſed with uncommon precipitation, conſidering the magnitue of the object; that it underwent no diſcuſſion; and that the heads of the church, the conſtitutional guardians of the national religion, were never conſulted upon it. Under ſuch circumſtances, it is no wonder that many ſincere proteſtants were alarmed: they had a right to be alarmed; it is the privilege, and the duty of all the ſubjects of England, to watch over their religious and civil liberties, and to approach either

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the ſenate or the throne with their fears, and their complaints; a privilege which has been bought with the deareſt blood of our anceſtors, and which is confirmed to us by law, as an ancient birthright and inheritance.

Soon after the repeal of the act, the Proteſtant Aſſociation began, and from ſmall beginnings extended over all England and Scotland. A deed of aſſociation was ſigned by all legal means to oppoſe the growth of popery, and which of the advocates of the crown will ſtand up and ſay, that ſuch an union was illegal? Their union was perfectly conſtitutional; there was no obligation of ſecrecy; their tranſactions were all public; a committee was appointed for regularity and correſpondence, and circular letters were ſent to all the dignitaries of the church, to join with them in the protection of the national religion.

Gentlemen, all this happened before Lord George Gordon was a member of, or the moſt diſtantly connected with it; for it was not till November 1779, that the London Aſſociation made him an offer of their chair, by an unanimous reſolution communicated to him, unſought and unexpected, in a public letter ſigned by the ſecretary, in the name of the whole body; and from that day to the day that he was committed to the Tower, I will lead him by the hand in your view, that you may ſee there is no blame in him, even though all his behaviour was unreſerved and public; and though watched by wicked men for purpoſes of vengeance, the crown has totally failed in giving it ſuch a context as can juſtify, in the mind of any reaſonable man, the concluſion they wiſh to eſtabliſh.

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This will fully appear hereafter; but let us firſt attend to the evidence on the part of the crown.

The firſt witneſs which it has called to ſupport this proſecution, is

William Hay, a bankrupt in fortune, he acknowledges himſelf to be, and I am afraid he is a bankrupt in conſcience: ſuch a ſcene of impudent, ridiculous inconſiſtency, would have utterly deſtroyed his credibility in the moſt trifling civil ſuit; and I am therefore almoſt aſhamed to remind you of his evidence, when I reflect, that you will never ſuffer it to glance acroſs your minds on this ſolemn occaſion.

This man, whom I may now, without offence or ſlander point out to you as a dark popiſh ſpy, who attended the meeting of the London Aſſociation to prevent their harmleſs purpoſes, conſcious that the diſcovery of his character would invalidate all his teſtimony, endeavoured at firſt to conceal the activity of his zeal, by denying that he had ſeen any of the deſtructive ſcenes imputed to the proteſtants; yet almoſt in the ſame breadth it came out, that there was hardly a place, public or private, where riot had erected her ſtandard, in which he had not been; nor a houſe, priſon, or chapel, that was deſtroyed, to the demolition of which he had not been a witneſs. He was at Newgate, and the Fleet; at Langdale's and at Coleman-ſtreet; at the Sardinian Ambaſſador's, and in Great Queen-ſtreet, Lincoln's-Inn-Fields. What took him to Coachmakers Hall? He went there, as he told us, to watch their proceedings, for he expected no good from them; and to juſtify his prophecy of evil, he ſaid on his examination by the crown, that

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as early as December he had heard ſome alarming republican language. What expreſſions did he remember? Why, that the Lord Advocate of Scotland was called only Harry Dundas. Finding this too ridiculous for ſo grave an occaſion, he endeavoured to put ſome words about the breach of the King's coronation oath into the priſoner's mouth, as proceeding from himſelf, which it is notorious he read out of an old Scotch book publiſhed near a century ago, on the abdication of King James the Second. Only attend to his croſs-examination. He ſaid, he was ſure he had ſeen Lord George Gordon at Greenwood's room in January; but when Mr. Kenyon, who knew he had never been there, adviſed him to recollect himſelf, he deſired to conſult his notes.

Firſt, he is poſitively ſure from his memory, that he had ſeen him there; then he ſays he cannot truſt to his memory, without recurring to his papers: on looking at them, they contradict him, and he then confeſſes that he never ſaw Lord George Gordon at Greenwood's room in January, when his note was taken, or at any other time. But why did he take notes? He ſaid, it was becauſe he foreſaw what would happen. How fortunate the crown is, gentlemen, to have ſuch friends to collect evidence by anticipation. When did he begin to take notes? He ſaid, on the 21ſt of February, which was the firſt time he had been alarmed at what he had ſeen or heard; although, not a minute before, he had been reading a note taken at Greenwood's room in January, and had ſworn that he attended their meetings, from apprehenſion of conſequences as early as December.

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Mr. Kenyon, who now ſaw him bewildered in a maze of falſhood, and ſuſpecting his notes to have been a villainous fabrication, to give the ſhew of correctneſs to his evidence, attacked him with a ſhrewdneſs for which he was wholly unprepared. You remember the witneſs had ſaid, that he always took notes when he attended any meetings, where he expected their deliberations might be attended with dangerous conſequences. Says Mr. Kenyon, give me one inſtance, in the whole courſe of your life, where you ever took notes before? Poor Mr. Hay was thunderſtruck, the ſweat ran down his face, and his countenance beſpoke deſpair, not recollection.—Sir, I muſt have an inſtance—tell me when, and where.—Gentlemen, it was now too late; ſome inſtance he was obliged to give, and as it was evident to every body that he had one ſtill to chooſe, I think he might have choſen a better. He had taken notes at the General Aſſembly of the church of Scotland ſix and twenty years before.—What! did he apprehend dangerous conſequences from the deliberation of the grave elders of the Kirk? Were they levying war againſt the King? At laſt, when he is called upon to ſay to whom he communicated the intelligence he had collected, the ſpy ſtood confuſed indeed: at firſt he refuſed to tell, ſaying he was his friend, and that he was not obliged to give him up; and when forced at laſt to ſpeak, it came out to be Mr. Butler, a gentleman univerſally known, and who, from what I know of him, I may be ſure never employed him, or any other ſpy, becauſe he is a man every way reſpectable, but who certainly is not only a papiſt, but the perſon who

was employed in all their proceedings to obtain the late indulgences from parliament. He called Mr. Butler his particular friend, yet profeſſed himſelf ignorant of his religion. I am ſure he could not be deſired to conceal it; Mr. Butler makes no ſecret of his religion; it is no reproach to any man that lives the life he does; but Mr. Hay thought it of moment to his credit in the cauſe, that he himſelf might be thought a proteſtant, unconnected with papiſts, and not a popiſh ſpy.

So ambitious was Mr. Hay of being uſeful in this character through every ſtage of the cauſe, that after ſtaying a little in St. George's Fields, he run home to his own houſe in St. Dunſtan's Church-yard, and got upon the leads, where he ſaw the very ſame man carrying the ſame flag he had ſeen in the fields. Gentlemen, whether the petitioners employed the ſame ſtandard-man through the whole courſe of their peaceable proceſſion, is certainly totally immaterial to the cauſe; but the circumſtance is material, to ſhew the wickedneſs of the man. How, ſays Mr. Kenyon, do you know that it was the ſame perſon that you ſaw in the fields; was you acquainted with him? No. How then?—Why, he looked like a brewer's ſervant;—like a brewer's ſervant! What, were they not all in their Sunday's cloaths? Oh, yes, they were all in their Sunday's cloaths. Was the man with the flag alone in the dreſs of his trade? No. Then how do you know he was a brewer's ſervant? Poor Mr. Hay! nothing but ſweat and confuſion again. At laſt, after a heſitation which every body thought would have ended in his running out of court, he ſaid he knew him to be a

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brewer's ſervant, becauſe there was ſomething particular in the cut of his coat, the cut of his breeches, and the cut of his ſtockings.

You ſee by what ſtrange means villainy is detected; perhaps he might have eſcaped me, but he ſunk under that ſhrewdneſs and ſagacity, which ability, without habits, does not provide.

Gentlemen, you will not, I am ſure, forget, whenever you ſee a man about whoſe apparel there is any thing particular, to ſet him down for a brewer's ſervant. Mr. Hay afterwards went to the lobby of the houſe of commons. What took him there? He thought himſelf in danger, and therefore, ſays Mr. Kenyon, you thruſt yourſelf voluntarily into the very center of danger. That would not do. Then he had a particular friend, whom he knew to be in the lobby, and whom he apprehended to be in danger.—Sir, who was that particular friend? Out with it; give us his name inſtantly: all in confuſion again, not a word to ſay for himſelf, and the name of this perſon who had the honour of Mr. Hay's friendſhip will probably remain a ſecret for ever. It may be aſked, how are theſe circumſtances material? and the anſwer is obvious, they are material, becauſe when you ſee a witneſs running into every hole and corner of falſehood, and as faſt as he is made to bolt out of one, taking cover in another, you will never give credit to what that man relates, as to points which are to affect the life or reputation of a fellow-citizen accuſed before you. God forbid that you ſhould. I might therefore get rid of this wretch altogether, without making a ſingle remark on that part of his teſtimony which bears upon the iſſue you are trying; but the Crown ſhall have the full

benefit of it all, I will defraud it of nothing; he has ſaid, notwithſtanding all his bankruptcy of fortune and conſcience, and all his folly and wickedneſs. Let us for the preſent take it as true and ſee what it amounts to. What is it he ſtates to have paſſed at Coachmakers-Hall? That Lord George Gordon deſired them to behave with unanimity and firmneſs, as the Scotch had done. Gentlemen, there is no manner of doubt that the Scotch behaved with unanimity and firmneſs, in reſiſting the relaxation of the penal laws againſt papiſts, and that by that unanimity and firmneſs they ſucceeded; but it was by the conſtitutional unanimity of the great body of the people of Scotland, whoſe example Lord George Gordon recommended, and not by the riots and burnings which they attempted to prove had been committed in Edingburgh in 1778.

I can tell you myſelf, Gentlemen, as one of the people of Scotland, that there then exiſted, and ſtill exiſts, 85 ſocieties of proteſtants, who have been, and ſtill are uniformly firm in oppoſing every change in that ſyſtem of laws eſtabliſhed to ſecure the revolution; and parliament gave way in Scotland to their united voice, not to the firebrands of the rabble. It is the duty of Parliament to liſten to the voice of the people, for they are the ſervants of the people; and when the conſtitution of church or ſtate is unanimouſly believed, whether truly or falſely, to be in danger, I hope there will never be wanting men, notwithſtanding the proceedings of to-day, to deſire the people to perſevere and be firm. Gentlemen, has the crown proved that the proteſtant brethren of the London Aſſociation had fired the maſs-houſes in Scotland, or had acted in rebellious oppoſition to law, ſo as to entitle it to

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wreſt the priſoner's expreſſions into an excitation of rebellion againſt the ſtate, or of violence againſt the properties of papiſts here, by ſetting up their firmneſs as an example? Certainly not; they have not even proved the naked fact of ſuch violences having been committed, though ſuch proof would have called for no reſiſtance; ſince, to make it bear as rebellious advice to the proteſtant aſſociation of London, it muſt have been firſt ſhewn, that ſuch acts had been perpetrated, or encouraged by the proteſtant ſocieties in the North.

Who has dared to ſay this? No man. Gentleman, the rabble in Scotland certainly did that which has ſince been done by the rabble in England, to the diſgrace and reproach of both countries; but in neither country was there found one man of character or condition of any deſcription who abetted ſuch enormities, nor any man, high or low, of any of the aſſociated Proteſtants, here or there, who were either convicted, tried, or taken on ſuſpicion.

As to what this man heard on the 29th of May, it was nothing more than a propoſition of going up in a body to St. George's Fields, to conſider how the petition ſhould be preſented with the ſame exhortations to firmneſs as before. The reſolution made on the motion has been read, and when I come to ſtate the evidence on the part of my noble friend, I will ſhew you the impoſſibility of ſupporting any criminal inference from what Mr. Hay afterwards puts in his mouth in the lobby, even taking it to be true. I wiſh here to be accurate.

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[Looks at a piece of paper on which he had taken down his words.]

He ſays, Lord George Gordon deſired them to conſider ſtedfaſtly to adhere to ſo good a cauſe as theirs was, promiſed to perſevere in it himſelf, and hoped, though there was little expectation at preſent from the Houſe of Commons, that they would meet with redreſs from their mild and gracious Sovereign, who no doubt would recommend to his miniſters to repeal it. This was all he heard; and I will ſhew you how this man, wicked as he is, if any belief is to be given to him, entirely overturns and brings to the ground the evidence of Mr. Bowen, on which the Crown reſts ſingly for the proof of words which are more difficult to explain. Gentlemen, was this the language of rebellion? If a multitude was at the gates of the Houſe of Commons to command and inſiſt on a repeal of this law, why encourage their hopes, by reminding them that they had a mild and gracious Sovereign? If war was levying againſt him, there was no occaſion for his mildneſs or graciouſneſs. If he had ſaid, be firm, and perſevere, we ſhall meet with redreſs from the prudence of the Sovereign, it might have borne a different conſtruction, becauſe, whether he was gracious or ſevere, his prudence might lead him to ſubmit to the neceſſity of the times. The words ſworn to were therefore perfectly clear and unambiguous; perſevere in your zeal and ſupplications, and you will meet with redreſs from a mild and gracious King, who will recommend it to his Miniſter to repeal it. Good God! if they were to wait till the King, whether from benevolence

benevolence or fear, ſhould direct his miniſter to influence the proceedings of parliament, how does it ſquare with the charge of inſtant coercion, or intimidation of the Houſe of Commons? If the multitude were aſſembled with the premeditated deſign of producing the immediate repeal by terror or arms, is it poſſible to ſuppoſe that their leader would deſire them to be quiet, and refer them to thoſe qualities in the Prince, which, however eminently they belonged to him, never could be exerted on objects in rebellion to his authority? Into what a labyrinth of nonſenſe and contradiction men involve themſelves, when forſaking the rigid rules of evidence, in caſes of blood, they would draw concluſions from words, in contradiction to language, and in defiance of common ſenſe!

The next witneſs that is called to you by the Crown, is Mr. Metcalfe; he was not in the Lobby, but ſpeaks only to Coachmakers-hall on the 29th of May, and to St. George's Fields. He ſays, that at the former, Lord George reminded them that the Scotch had ſucceeded by their unanimity; hoped that no one who had ſigned the Petition, would be aſhamed or afraid to ſhew himſelf in the cauſe; that he was ready to go to the gallows for it; that he would not preſent the petition of a lukewarm people; deſired them to come to St. George's Fields diſtinguiſhed with blue cockades; and that they ſhould be marſhalled in four diviſions. Then he ſpeaks to ſeeing them in the fields in the order that had been preſcribed; that he ſaw Lord George there in a coach, ſurrounded with a vaſt concourſe of people with blue ribbons, forming

ing like ſoldiers, but was not near enough to hear whether the priſoner ſpoke to them or not.

Such is Mr. Metcalfe's evidence; and after the attention you have already honoured me with, and which I ſhall have occaſion ſo often to aſk again on the ſame ſubject, I ſhall trouble you with but one obſervation, viz. That it cannot, without abſurdity, be ſuppoſed, that if the aſſembly at Coachmakers-hall had been ſuch conſpirators as they are repreſented, their doors would have been open to ſtrangers, like this witneſs, to come in and report their proceedings.

The next witneſs is Mr. Anſtruther, who ſpeaks to the language and deportment of the noble priſoner, both at Coachmakers-hall on the 29th of May, and afterwards on the 2d of June, in the lobby of the Houſe of Commons. It will be granted to me, I am ſure, even by the advocates of the crown, that this gentleman, not only from the clearneſs and conſiſtency of his teſtimony, but from his rank and character in the world, is infinitely more worthy of credit than Mr. Hay, who went before him; and if the circumſtances of irritation and confuſion under which the Rev. Mr. Bowen confeſſed himſelf to have heard and ſeen what he told you he heard and ſaw, I may likewiſe aſſert, without any offence to the Reverend Gentleman, and without drawing any parallel between their credits, that where their accounts of this tranſaction differ, the preferenee is due to the former.

Mr. Anſtruther very properly prefaced his evidence with this declaration, "I do not mean to "ſpeak accurately to words; it is impoſſible to "recollect

" recollect them at this diſtance of time." I believe I have uſed his very expreſſion; and ſuch expreſſion it well became him to uſe in a caſe of blood: But words, even if they could be accurately remembered, are to be admitted with great reſerve and caution, when the purpoſe of the ſpeaker is to be meaſured by them. They are tranſient and fleeting; frequently the effect of a ſudden tranſport, eaſily miſunderſtood, and often unconſciouſly miſrepreſented. It may be the fate of the moſt innocent language to appear ambiguous, or even malignant, when related in mulitated detached paſſages, by people to whom they were not addreſſed, and who knew nothing of the previous deſigns either of the ſpeaker, or of thoſe to whom he ſpoke. Mr. Anſtruther ſays, that he heard Lord George Gordon deſire the petitioners to meet him on the Friday following in St. George's Fields; and that if there were fewer than twenty thouſand people, he would not preſent the petition, as it would not be of conſequence enough; and that he recommended to them the example of the Scotch, who, by their firmneſs, had carried their point. Gentlemen, I have already admitted that they did, by firmneſs, carry it. But has Mr. Anſtruther attempted to ſtate any one expreſſion that fell from the priſoner, to juſtify the poſitive, unerring concluſion, or even the preſumption, that the firmneſs of the Scotch Proteſtants, by which the point was carried in Scotland, was the reſiſtance and riots of a rabble? No, gentlemen, he ſingly ſtates the words as he heard them in the hall on the 29th; and all that he afterwards ſpeaks to in the lobby, rebuts ſo harſh and dangerous a conſtruc-

tion. The words ſworn to at Coachmakers-hall are, that he recommended temperance and firmneſs. Gentlemen, if motives are to be judged by words, for Heaven's ſake let theſe words carry their popular meaning in language. Is it to be preſumed, without proof, that a man means one thing becauſe he ſays another? Does the exhortation of temperance and firmneſs apply moſt naturally to the conſtitutional reſiſtance of the Proteſtants of Scotland, or to the outrages of ruffians who pulled down the houſes of their neighbours? Is it poſſible, with decency, to ſay in a court of juſtice, that the recommendation of temperance is the excitation of villainy and phrenzy? But the words, it ſeems, are to be ſo conſtrued, not from their own ſignification, but from that which follows, viz. By that the Scotch carried their point.

Gentlemen, is it in evidence before you, that by rebellion the Scotch carried their point, or that the indulgences to Papiſts were not extended to Scotland, becauſe the rabble had oppoſed their extenſion? Has the crown authorized either the court or its law ſervants to tell you ſo, or can it be decently maintained that Parliament was ſo infamous, or ſo weak, as to yield to a wretched mob of vagabonds at Edinburgh, what it has ſince refuſed to the earneſt prayers of a hundred thouſand Proteſtants in London? No, gentlemen of the jury, Parliament was not, I hope ſo abandoned; but the miniſters knew that the Proteſtants in Scotland were to a man abhorrent of that law, and though they never held out reſiſtance, if government ſhould be diſpoſed to cram it down their their throats by force, yet ſuch a violence to the

united ſentiments of the people, appeared to be a meaſure ſo obnoxious, ſo dangerous, and withal ſo unreaſonable, that it was wiſely and judiciouſly dropped to ſatisfy the general wiſhes of the nation, and not to avert the vengeance of thoſe low incendiaries, whoſe miſdeeds have rather been talked of than proved. Thus, gentlemen, the exculpation of Lord George's conduct on the 29th of May is ſufficiently eſtabliſhed, by the very evidence on which the Crown aſks you to convict him; ſince, in recommending temperance and firmneſs, after the example of Scotland, you cannot be juſtified in pronouncing that he meant more than the firmneſs of the grave reſpectable people in that country, to whoſe conſtitutional firmneſs the legiſlature had before acceded, inſtead of branding it with the title of rebellion; and who, in my mind, deſerve thanks from the King, in temperately and firmly reſiſting every innovation which they conceived to be dangerous to the national religion, independent of which his Majeſty, without a new limitation by Parliament, has no more title to the crown than I have.

Such, gentlemen, is the whole amount of all my noble friend's previous communications with the petitioners, whom he afterwards aſſembled to conſider how their petition ſhould be preſented; this is all, not only that men of credit can tell you on the part of the proſecution, but all that even the worſt vagabond that ever appeared in a court, the very ſcum of the earth, thought himſelf ſafe in ſaying upon oath on the preſent occaſion. Indeed, gentlemen, when I conſider my noble friend's ſituation, his open, unreſerved temper,

and his warm and animated zeal for a cauſe which rendered him obnoxious to ſo many wicked men, ſpeaking daily and publickly to mixed multitudes of friends and foes on a ſubject which affected his paſſions, I confeſs I am aſtoniſhed, that no other expreſſions than thoſe in evidence before you have found their way into this court. That they have not found their way, is ſurely almoſt ſatisfactory proof, that there was nothing in his heart which even youthful zeal could magnify into guilt, or want of caution could betray.

Gentlemen, Mr. Anſtruther's evidence, when he ſpeaks of the lobby of the Houſe of Commons, is very much to be attended to he ſays: "I ſaw Lord George leaning over the gallery," which poſition joined with what he mentions of his talking with the chaplain, marks the time, and caſts a ſtrong doubt on Bowen's teſtimony, which you will find ſtands in this only material part of it ſingle and unſupported; "I then heard him," continued Mr. Anſtruther, "tell them, that they had been called a mob in the houſe, and that peace officers had been ſent to diſperſe them peaceable petitioners; but that by ſteadineſs and firmneſs they might carry their point, as he had no doubt his Majeſty, who is a gracious Prince, would ſend to his miniſters to repeal the act, when he heard his ſubjects were coming up for miles round, and wiſhing its repeal." How coming up? In rebellion and arms to compel it! No. All is ſtill put on the graciouſneſs of the Sovereign, in liſtening to the unanimous wiſhes of his people. If the multitude then aſſembled had been brought together to intimidate the houſe

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by their firmneſs, or to coerce it by their numbers, it was ridiculous to look forward to the King's influence over it, when the collection of future multitudes ſhould induce him to employ it. The expreſſions were therefore quite unambiguous, nor could malice itſelf have ſuggeſted another conſtruction of them, were it not for the fact, that the houſe was at that time ſurrounded not by the petitioners whom the noble priſoner had aſſembled, but by a mob, who had mixed with them, and who therefore, when addreſſed by him, were inſtantly ſet down as his followers. He thought he was addreſſing the ſober members of the Aſſociation, who, by ſteadineſs and perſeverance, could underſtand nothing more than perſeverance in that conduct he had antecedently preſcribed: for ſteadineſs ſignifies an uniformity, not a change of conduct; and I defy the crown to point out a ſingle expreſſion from the day he took the chair of the Aſſociation, to the day I am ſpeaking of, that juſtifies any other conſtruction of ſteadineſs and firmneſs, than that which I put upon it before.

What would be the feelings of our venerable anceſtors who framed the ſtatute of treaſons, to prevent their children being drawn into the ſnares of death, unleſs proveably convicted by overt acts? If they could hear us diſputing, whether it was treaſon to deſire harmleſs unarmed men to be firm and of good heart, and to truſt to the graciouſneſs of their King.

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to this circumſtance. Mr. Bowen is the only man who has attempted, directly or indirectly, to ſay that Lord George Gordon uttered a ſyllable to the multitude in the lobby concerning the deſtruction of the maſs-houſe in Scotland. Not one of the crown witneſſes, not even the wretched abandoned Hay, who was kept, as he ſaid, in the lobby the whole afternoon, from anxiety for his pretended friend, has ever glanced at any expreſſion reſembling it. They all finiſh with the expectations which he held out from a mild and gracious Sovereign. Mr. Bowen alone goes on further, and ſpeaks of the ſucceſsful riots of the Scotch; but in ſuch a manner, as ſo far from conveying the hoſtile idea which he ſeemed ſufficiently deſirous to convey, tends directly to wipe off the hint and inſinuations which have been made to ſupply the place of proof upon that ſubject; a ſubject which ſhould not have been touched on without the fulleſt ſupport of evidence, and where nothing but the moſt unequivocal evidence ought to have been received.

He ſays, his Lordſhip began, by bidding them be quiet, peaceable, and ſteady.—Not ſteady alone; though if that had been the expreſſion, ſingly by itſelf, I ſhould not have been afraid to meet it; but be quiet, peaceable, and ſteady. Gentlemen, I am indifferent what other expreſſions of dubious interpretation are mixed with theſe; for you are trying whether my noble friend came to the Houſe of Commons with a decidedly hoſtile mind, and as I ſhall, in the recapitulation of our own evidence, trace him in your recollection, without ſpot or ſtain, down to the very moment

ment when the imputed words were ſpoken, you will hardly forſake the whole innocent context of his behaviour, and torture your inventions to collect the blackeſt ſyſtem of guilt ſtarting up in a moment, without being previouſly concerted, or being afterwards carried into execution.

Firſt, What are the words by which you are to be convinced that the legiſlature was to be frightened into compliance, and to be coerced if terror ſhould fail? "Be quiet, peaceable, and "ſteady; you are a good people; your's is a good "cauſe. His Majeſty is a gracious Monarch; and "when he hears that all his people ten miles round "are collecting, he will ſend to his miniſters to "repeal the Act." God of Heaven, gentlemen, by what rules of conſtruction can ſuch an addreſs to unarmed, defenceleſs men, be tortured into treaſonable guilt? It is impoſſible to do it without pronouncing, even in the total abſence of all proof of fraud, or deceit, in the ſpeaker, that quiet ſignifies tumult and uproar, and that peace ſignifies war and rebellion.

Gentlemen, I before obſerved, that it was moſt important for you to remember, that with this exhortation to quiet, and confidence in the King, the evidence of the other witneſſes cloſed; even Mr. Anſtruther, who was a long time afterwards in the lobby, heard nothing further; ſo that if Mr. Bowen had been out of the caſe altogether, what would the amount have been? Why ſimply, that Lord George Gordon, having aſſembled an unarmed, inoffenſive multitude in St. George's Fields, to preſent a petition to parliament, and finding them becoming tumultuous,

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to the diſcontent of the members, and the diſcredit of the cauſe, deſired them not to give it up, but to continue to ſhew their zeal for the legal object in which they were engaged, but to manifeſt that zeal quietly and peaceably, and not to deſpair of ſucceſs; ſince, though the Houſe was not diſpoſed to liſten to it, they had a gracious Sovereign who would. This is the ſum and ſubſtance of the whole. They were not, even by any one ambiguous expreſſions, encouaaged to truſt to their numbers as ſufficient to overawe the Houſe, or to their ſtrength to compel it; nor to the prudence of the ſtate, in yielding to neceſſity, but to the indulgence of the King, in compliance with the wiſhes of his people.

Mr. Bowen, however, thinks proper to proceed, and I beg that you will particularly attend to the ſequel of his evidence. He ſtands ſingle in all the reſt that he ſays, which might entitle me to aſk you abſolutely to reject it; but I have no objection to your believing it every word if you can, becauſe, if inconſiſtencies prove any thing, they prove that there is nothing of that deliberation which conſtitutes guilt. I mean to be correct as to his words (looks at his words which he had taken down.) He ſays, that Lord George told the people that an attempt had been made to introduce the bill into Scotland, and that they had no redreſs till the maſs-houſes were pulled down. That Lord Weymouth then ſent official aſſurances, that it ſhould not be extended to them. Gentlemen, why is Mr. Bowen called by the Crown to tell you this? The reaſon is plain, becauſe the Crown, conſcious that it could make no caſe of treaſon from the reſt of

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the evidence in the ſober judgment of law, aware that it had proved no purpoſe or act of force againſt the Houſe of Commons to give countenance to the accuſation, much leſs to warrant a conviction, found it neceſſary to hold up the noble priſoner, as the wicked and cruel author of all thoſe calamities in which every man's paſſions might be ſuppoſed to come in to aſſiſt his judgment to decide. They therefore make him ſpeak in ænigmas to the multitude; not telling them to do miſchief, in order to ſucceed, but that by miſchief in Scotland ſucceſs had been obtained. Gentlemen, if Mr. Bowen had even ended here, I can hardly conceive ſuch a conſtruction could be decently hazarded, after all the witneſſes we have called; how much leſs, when after the dark inſinuations which ſuch expreſſions might otherwiſe been argued to convey. The very ſame witneſs, on whoſe teſtimony alone they are to be believed, and who muſt be credited or diſcredited *in toto*, takes out the ſting himſelf, by giving them ſuch an immediate context and concluſion, as renders the propoſition ridiculous, which his evidence is brought forward to eſtabliſh; for he ſays, that Lord George inſtantly afterwards addreſſed himſelf thus: "Beware of evil-minded perſons, who may mix among you, and do miſchief, the blame of which will be imputed to you." Gentlemen, if you reflect on the ſlander which I told you fell upon the proteſtants in Scotland by the acts of the rabble there, I am ſure that you will ſee the words are capable of an eaſy explanation. But as Mr. Bowen concluded with telling you, that he heard them in the midſt of noiſe and confuſion; and as I can only take them from him, I ſhall not make

an attempt to collect them into one conſiſtent diſcourſe, ſo as to give them a decided meaning in favour of my client; becauſe I have repeatedly told you, that words imperfectly heard, and partially related, cannot be ſo reconciled. But this I will ſay, that he muſt be a ruffian, and not a lawyer, who would dare to tell an Engliſh Jury, that ſuch ambiguous words, hemmed cloſely in between others not only innocent but meritorious, are to be adopted to conſtitute guilt, by rejecting both introduction and ſequel with which they are abſolutely irreconcileable and inconſiſtent; for if ambiguous words, when coupled with actions, decypher the mind of the actor, ſo as to eſtabliſh the preſumption of guilt, will not ſuch as are plainly innocent and unambiguous, go as far to repel ſuch preſumption? Is innocence more difficult of proof than the moſt malignant wickedneſs? Gentlemen, I ſee your minds revolt at ſuch ſhocking propoſitions. I beſeech you to forgive me; I am afraid that my zeal for my client has led me to offer obſervations, which I ought in juſtice to have believed, that every honeſt mind would feel the truth of with pain and abhorrence, without being pointed out.

Gentlemen, you have now heard, upon the ſolemn oaths of diſintereſted men, a faithful hiſtory of the conduct of Lord George Gordon, from the day that he became a member of the Proteſtant Aſſociation, to the day that he was committed a priſoner to the Tower. And I have no doubt, from the attention with which I have been honoured from the beginning, that you have ſtill kept in your minds the principles to which I entreated you would apply it, and that you have meaſured it all by that ſtandard. You

You have now, therefore, only to look back to the whole of it together, to reflect on all you have heard concerning him; to trace him in your recollection through every part of the tranſaction, and conſidering it with one manly liberal view, to aſk your own honeſt hearts, whether you can ſay, that the noble and unfortunate youth is a wicked and deliberate traitor, who deſerves, by your verdict, to ſuffer a ſhameful and ignominious death, and to ſtain the ancient honour of his houſe for ever?

The crime that the crown would have fixed upon him, is, that he aſſembled the Proteſtant Aſſociation round the Houſe of Commons, not merely to influence and perſuade parliament by the earneſtneſs of their application, but actually to coerce it by hoſtile rebellious force; that finding himſelf diſappointed in the ſucceſs of that coercion, he afterwards incited his followers to aboliſh the legal indulgencies to papiſts, which the object of the petition was to repeal, by the burning of their houſes of worſhip, and the deſtruction of their property; which ended at laſt in a general attack on the property of all orders of men, religious and civil, on the public treaſures of the nation, and on the very being of the government.

To ſupport a charge of ſo atrocious and unnatural a complexion, the laws of the moſt arbitrary nations would require the moſt incontrovertible proof; either the villain muſt have been taken in the overt-act of wickedneſs, or if he worked in ſecret on others, his guilt muſt have been brought out by the conſiſtent tenor of his conduct, or by the diſcovery of ſome plot or conſpiracy: the very worſt inquiſitor that ever dealt in blood, would

vindicate the torture, at leaſt by plauſibility, and the ſemblance of truth.

What evidence then will a Jury of Engliſhmen expect from the ſervants of the crown of England, before they deliver up a brother accuſed before them to ignominy and death? What proof will their conſciences require? What will their plain and manly underſtandings accept of? What does the immemorial cuſtom of their fathers, and the written law of this land, warrant them in demanding? Nothing leſs in any caſe of blood, than the cleareſt and moſt unequivocal proof; but in this caſe, the act has not even truſted to the humanity and juſtice of our general law, but has ſaid in plain, rough, expreſſive terms, proveably, That is, ſays Lord Coke, not upon conjectural preſumptions, or inferences, or ſtrains of wit, but upon direct and plain proof. For the King, Lords and Commons, continues that great lawyer, did not uſe the word probably, for then common argument might have ſerved; but proveably, which ſignifies the higheſt force of demonſtration. And what evidence, Gentlemen of the Jury, does the crown offer to you in compliance with theſe ſound and ſacred doctrines of juſtice? A few broken interrupted disjointed words, without context or connection, uttered by the ſpeaker in agitation and heat, and heard by thoſe who relate them to you in the midſt of tumult and confuſion; and even thoſe words, mutilitated as they are, in direct oppoſition to, and inconſiſtent with repeated and earneſt declarations delivered at the very ſame time, and on the very ſame occaſion, related to you by a much greater number of perſons, and abſolutely incompatible with

with the whole tenor of his conduct, proved to you by reſpectable witneſſes, whom we only ceaſed calling, becauſe human life would have been too ſhort to hear the remainder.

What can be added to ſuch obſervations, which, even if they were leſs clear, carry their own explanation in every one of your minds? Which of us all, gentlemen, would be ſafe ſtanding at the bar of God or man, if we were not to be judged, not by the regular current of our lives and converſations, but by detached and unguarded expreſſions, picked out by malice, and recorded without context or circumſtances againſt us, though directly inconſiſtent with other expreſſions, delivered at the ſame time, on the ſame ſubject, and though repugnant to the whole tenor of our deportment and behaviour? Yet ſuch is the only evidence on which the Crown aſks you to dip your hands, and to ſtain your conſciences in the innocent blood of the noble and unfortunate youth, who ſtands before you on the ſingle evidence of the words which you have heard from their witneſſes, (for what but words have you heard) which even if they had ſtood uncontroverted by the proofs with which we have ſwallowed them up, or explained by circumſtances which deſtroy their malignity, could not at the very worſt, amount in law to more than a breach of the act of tumultuous petitioning, if ſuch an act ſtill exiſts; ſince the worſt malice of his enemies have not been able to bring out one ſingle witneſs to ſay that he ever directed, countenanced, or approved rebellious force againſt the legiſlature of his country. Yet without which evidence it is impoſſible to make a caſe of treaſon by the moſt

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ſtrained and romantic conſtruction. It is indeed aſtoniſhing to me, that men can keep the natural colour in their cheeks, when they aſk for blood on ſuch a caſe, even if the priſoner had made no defence. But will they ſtill continue to aſk for it, after what they have heard? I will juſt remind the Solicitor General, before he begins his reply, what matter he has to encounter with.

That the going up in a body, was not even originated by Lord George, but by others in his abſence; that when propoſed by him, it was unanimouſly adopted by the whole Aſſociation, and conſequently their act as much as his; adopted not in a conclave, but with open doors, and the reſolution publiſhed to all the world; known to the miniſters and magiſtrates of the country, who did not even ſignify to him, or to any body elſe, that it was dangerous or illegal; that decency and peace were enjoined and commanded; and that very regularity, and thoſe badges of diſtinction, which are now cruelly turned into the charge of a hoſtile array againſt him, were expreſsly and publicly directed for the preſervation of peace, and the prevention of tumult; to ſecure which, there was not even a walking-ſtick to be ſeen amongſt them; and their demeanor perfectly peaceable, till it was apparently diſgraced by the acts of a villainous banditti, which have been ſeparated from the Proteſtant Aſſociation, by the moſt incontrovertible proof; and which, even if not ſo ſeparated, could not have affected Lord George, but by bringing home their conduct to him.

While the houſe was deliberating, he repeatedly intreated them to behave with decency and peace,

peace, and ſo retire to their houſes; but he knew not that he was ſpeaking to the enemies of his cauſe. When they at laſt diſperſed, no man thought or imagined that treaſon had been committed; and his Lordſhip was carried home by Sir James Lowther, a gentleman of the firſt fortune and character, who tells you, that, on the coach being ſurrounded by the mob, he beſeeched them to be quiet, and to diſperſe, or parliament would never liſten to their petition. He then returned to bed, where he lay unconſcious that ruffians were ruining him by their diſorders in the night. On Monday he publiſhed an advertiſement, reviling the authors of theſe riots; and as the Proteſtant cauſe had been wickedly made the pretext for them, enjoining all who wiſhed well to it, to behave like good citizens. Nor has the crown even attempted to prove that he had either given, or that he afterwards gave ſecret inſtructions, in oppoſition to that public admonition. He afterwards begged an audience to receive the King's commands. He waited on the Miniſters; he attended his duty in parliament; and when the multitude, amongſt whom there was not a man of the aſſociated Proteſtants, again aſſembled on the Tueſday, under pretence of the Proteſtant cauſe, he offered his ſervices, and read a reſolution of the houſe to them, accompanied with every expoſtulation which a zeal for peace could poſſibly inſpire. And becauſe he was ſpeaking to ruffians and Papiſts, and not to the authors of the petition, and who therefore would not obey, how is that to be imputed to him?

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He afterwards, agreeable to the King's directions, attended the Magiſtrates in their duty, honeſtly and honourably exerting all his powers to quell the fury of the multitude; a conduct which, to the diſhonour of the crown, has been ſcandalouſly turned againſt him; and protections which he granted publickly in the coach of the Sheriff of London, whom he was aſſiſting in his office of magiſtracy, are produced in evidence againſt him; although protections of a ſimilar nature were, to the knowledge of the whole Privy Council, granted by Mr. Fiſher himſelf, who now ſtands in my preſence unreproved; who, if the crown that ſummoned him durſt have called him, would have explained them ſo as to remove every imputation of guilt.

What then has produced this trial for high treaſon, or given it, when produced, the ſerioufneſs and ſolemnity it wears? What but the inverſion of all juſtice, by judging from conſequences, inſtead of from cauſes and deſigns? What but the artful manner in which the crown has endeavoured to blend the petitioning in a body, and the zeal with which an animated diſpoſition conducted it, with the melancholy crimes that followed; crimes which the ſhameful indolence of our magiſtrates, which the total extinction of all police and government ſuffered to be committed in broad day, in the delirium of drunkenneſs, and by an unarmed banditti without a head, without plan or object, and without refuge from the inſtant gripe of juſtice? A banditti with whom the aſſociated Proteſtants and their Preſident had no manner of connection,

nection, and whose cause they overturned, dishonoured and ruined.

How unchristian then is it to attempt, without evidence, to infect your imaginations, who are upon your oaths, dispassionately and disinterestedly to try the offence of assembling a multitude with a petition to repeal a law, which has happened so often in all your memories before, by blending it with all the future catastrophe, on which every man's mind may be supposed to retain some degree of irritation? O fie! O fie! It is taking the advantage of all the infirmities of nature. Do they wish you, while you are listening to the evidence to connect it with consequences, in spite of reason and truth, in order to hang the millstone of prejudice round his innocent neck to sink him? If there are such men, may God forgive them for the attempt, and inspire you with fortitude and wisdom, to do your duty to your fellow-citizen with calm, steady, reflecting minds.

Gentlemen, I have no manner of doubt that you will—I am sure you cannot but see, notwithstanding my great inability, increased by a perturbation of mind, arising, thank God, from no dishonest cause, that there has been not only no evidence on the part of the Crown to fix the guilt of the late commotions upon him, but that on the contrary, we have been able to resist the probability, I might almost say the possibility of the charge, not only by living witnesses, whom we only ceased to call, because the trial never would have ended, but by the evidence of all the blood that has paid the forfeit of that guilt already: an evidence, that I will take upon me to say, is the strongest and most un-

anſwerable, that the combination of natural events ever brought together for the ſhield of a guiltleſs man. That in the trial of all that black catalogue, which expired on the gibbets, though conducted by the ableſt ſervants of the Crown, with an eye, and with a laudable eye to the inveſtigation of the cauſes of the ſubject of to-day, no one fact appeared which ſhewed any plan, any object, any leader. That out of forty-four thouſand perſons who ſigned the petition of the Proteſtants, not one out of all that number was to be found among thoſe who were convicted, tried, or even apprehended on ſuſpicion; and that out of all the felons who were let looſe from priſons, and who aſſiſted in the deſtruction and plunder of our property, not a ſingle wretch was to be found, who could even attempt to ſave his own life by the plauſible promiſe of giving evidence on the preſent occaſion.

Gentlemen, what can overturn ſuch a proof as this? ſurely a good man might, without ſuperſtition, believe that ſuch an union of events was ſomething more than the natural iſſues of life, and that the providence of God was watchful for the protection of innocence and truth. I may now, therefore, relieve you from the pain of hearing me any longer, and be myſelf relieved from the pain of ſpeaking on a ſubject which agitates and diſtreſſes me. Since Lord George Gordon ſtands clear of every hoſtile act or purpoſe againſt the legiſlature of his country, or the properties of his fellow-ſubjects; ſince the whole tenor of his conduct repels the belief of the traiterous purpoſe charged by the indictment, my taſk is finiſhed. I ſhall make no

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addreſs to your paſſions, I will not remind you of the long and rigorous impriſonment he has ſuffered; I will not ſpeak to you of his great youth, of his illuſtrious birth, and of his uniformly animated and generous zeal in Parliament for the conſtitution of his country. Such topics might be uſeful in the balance of a doubtful caſe; yet even then I ſhould have truſted to the honeſt hearts of Engliſhmen to have felt them without excitation. At preſent, the plain and rigid rules of juſtice are ſufficient to entitle me to your verdict; and may God Almighty, who is the ſacred author of both, fill your minds with the deepeſt impreſſions of them, and with virtue to follow thoſe impreſſions! You will then reſtore my innocent client to liberty, and me to that peace of mind, which, ſince the protection of that innocence in any part depended on me, I have never known.

FINIS.

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